

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

BRIGITTE STELZER,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:19-cv-547 (JDP)
)	
INDUSTRIAL MEDIA, LLC - A THOMASNET-)	
RICH MEDIA PARTNERSHIP ENTERPRISE)	
)	
Defendant.)	

**ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANT INDUSTRIAL
MEDIA, LLC - A THOMASNET-RICH MEDIA PARTNERSHIP ENTERPRISE**

Defendant Industrial Media, LLC – a Thomasnet-Rich Media Group Partnership Enterprise (“Industrial Media” or “Defendant”), by its undersigned counsel, and for its Answer to the Plaintiff’s Amended Complaint in the captioned proceeding, states:

NATURE OF ACTION

1. Answering paragraph 1 of the Complaint, Defendant states the paragraph sets forth one or more legal conclusions to which no response is required; to the extent paragraph 1 contains factual allegations, they are denied.

JURISDICTION AND VENUE

2. Answering paragraph 2 of the Complaint, Defendant states the paragraph sets forth one or more legal conclusions to which no response is required; to the extent paragraph 2 contains factual allegations, they are denied.

3. Defendant states that paragraph 3 of the Complaint sets forth one or more legal conclusions to which no response is required.

4. Defendant states that paragraph 4 of the Complaint sets forth one or more legal conclusions to which no response is required.

PARTIES

5. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5, and therefore denies them.

6. Answering paragraph 6, Defendant admits that it is a limited liability company organized and existing under the laws of the State of Delaware, and that it does business in Wisconsin from a place of business located at 6000 Monona Drive, Suite 202, Monona Wisconsin, 53716, and denies all remaining allegations.

7. Admitted.

8. Admitted.

9. Admitted.

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photographs

10. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10, and therefore denies them.

11. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 11, and therefore denies them.

12. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 12, and therefore denies them.

13. Answering paragraph 13, Defendant states that the paragraph sets forth one or more legal conclusions to which no response is required; to the extent that the paragraph contains factual allegations, Defendant is without knowledge or information sufficient to form a belief as to their truth, and therefore denies them.

14. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 14, and therefore denies them.

B. Defendant's Infringing Activities

15. Denied.

16. Denied.

17. Answering paragraph 17, Defendant admits that it used the subject images for purposes of disseminating news and is without knowledge or information sufficient to form a belief as to the truth of the paragraph's remaining allegations, and therefore denies them.

18. Answering paragraph 18, Defendant states that the paragraph's reference to "the Photograph" is vague and ambiguous, admits that it did not alter any image it used in the publication that forms the basis for this lawsuit, and denies any allegation in paragraph 18 that is inconsistent with the foregoing.

FIRST CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

19. Defendant restates and incorporates its response to paragraph 1 through 18 as if fully set forth.

20. Denied.

21. Denied.

22. Denied.

23. Denied.

24. Denied.

25. Denied.

SECOND CLAIM FOR RELIEF
INTEGRITY OF COPYRIGHT MANAGEMENT INFORMATION AGAINST
DEFENDANT
(17 U.S.C. § 1202)

26. Defendant restates and incorporates its response to paragraph 1 through 25 as if fully set forth.

27. Denied.

28. Denied.

29. Denied.

30. Denied.

31. Denied.

32. Denied.

33. Denied.

AFFIRMATIVE DEFENSES

AS AND FOR its Affirmative Defenses, Defendant Industrial Media states:

1. One or more of Plaintiff's claims fail to state a claim upon which relief may be granted.

2. Defendant did not produce the video that contained allegedly infringing material.
3. Plaintiff has failed to mitigate her claimed damages.
4. Plaintiff's claims may be barred, in whole or in part, by the doctrines of waiver and/or estoppel.

WHEREFORE, Defendant Industrial Media – A Thomasnet-Rich Media Enterprise, demands judgment as follows:

- A. Dismissing the Plaintiff's Complaint, with prejudice;
- B. Awarding Defendant its costs and disbursements of this action, including attorney's fees as allowed by law; and
- C. Such other and further relief as the Court deems appropriate.

Dated this 28th day of August, 2019.

HURLEY BURISH, S.C.

*Attorneys for Industrial Media, LLC – A
Thomasnet-Rich Media Partnership Enterprise*

/s/ Andrew W. Erlandson

Andrew W. Erlandson
WI State Bar ID No. 1029815
33 E. Main Street, Ste. 400
Post Office Box 1528
Madison, WI 53701-1528
(608) 257-0945
aerlandson@hurleyburish.com